

ORDER NO. 2539

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Acting Chairman;  
Tony Hammond, Vice Chairman;  
Mark Acton;  
Ruth Y. Goldway; and  
Nanci E. Langle

Competitive Product Prices  
Priority Mail Express, Priority Mail &  
First-Class Package Service Contract 2 (MC2014-22)  
Negotiated Service Agreement

Docket No. CP2014-37

ORDER APPROVING AMENDMENT TO  
PRIORITY MAIL EXPRESS, PRIORITY MAIL, & FIRST-CLASS PACKAGE SERVICE  
NEGOTIATED SERVICE AGREEMENT

(Issued June 11, 2015)

I. INTRODUCTION

The Postal Service seeks to amend a Priority Mail Express, Priority Mail, & First-Class Package Service negotiated service agreement.<sup>1</sup> For the reasons discussed below, the Commission approves the Amendment.

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<sup>1</sup> Notice of United States Postal Service of Amendment to Priority Mail Express, Priority Mail, & First-Class Package Service Contract 2, with Portions Filed Under Seal, May 29, 2015 (Notice). The Amendment is an attachment to the Notice (Amendment).

In Order No. 2034, the Commission approved the Priority Mail Express, Priority Mail, & First-Class Package Service Contract 2 negotiated service agreement (Existing Agreement).<sup>2</sup> On May 29, 2015, the Postal Service filed notice that it has agreed to an additional Amendment to the Existing Agreement. On June 1, 2015, the Commission issued an order reopening this docket to consider the Amendment, appointing a Public Representative, and providing interested persons with an opportunity to comment.<sup>3</sup>

The Postal Service intends for the Amendment to become effective one business day after the date that the Commission completes its review of the Notice. Notice at 1. The Postal Service filed supporting financial documentation and a certified statement, as required by 39 C.F.R. § 3015.5. *Id.* The Postal Service asserts that the Amendment will not impair the ability of the contract to comply with 39 U.S.C. § 3633. *Id.*, Attachment B.

## II. COMMENTS

Comments were filed by the Public Representative.<sup>4</sup> No other person submitted comments. The Public Representative reviewed the Amendment, the Existing Agreement, and the financial model filed under seal. *Id.* at 2. Based on that review, she concludes that the Existing Agreement, as amended, should continue to generate sufficient revenues to cover costs and satisfy 39 U.S.C. § 3633(a) during the next year of the contract. *Id.* The Public Representative further notes that the Amendment includes a mechanism of annual adjustment of prices that should help maintain the

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<sup>2</sup> See Docket Nos. MC2014-22 and CP2014-37, Order Adding Priority Mail Express, Priority Mail, & First-Class Package Service Contract 2 to the Competitive Product List, March 27, 2014 (Order No. 2034). The contract was later amended. See Order No. 2104, Order Approving Amendment to Priority Mail Express, Priority Mail, & First-Class Package Service Contract 2 Negotiated Service Agreement, June 26, 2014.

<sup>3</sup> Order No. 2523, Notice and Order Concerning Amendment to Priority Mail Express, Priority Mail, & First-Class Package Service Contract 2 Negotiated Service Agreement, June 1, 2015.

<sup>4</sup> Public Representative Comments on Postal Service Notice of Amendment to Priority Mail Express, Priority Mail & First-Class Package Service Contract 2, June 8, 2015 (PR Comments).

contract's ability to satisfy the requirements of 39 U.S.C. § 3633(a) over the lifetime of the contract. *Id.*

### III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, and the comments filed by the Public Representative.

*Cost considerations.* The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Amendment adjusts price calculations for Priority Mail and Priority Mail Express during the remaining contract years. *Id.* Attachment A at 1-2. The Amendment also implements a time-limited discount for First-Class Package Service after the Amendment goes into effect and describes First-Class Package Service pricing for the remainder of the contract. *Id.* at 2.

Based on a review of the record, the Commission finds that the Existing Agreement, as amended, should cover its attributable costs. 39 U.S.C. § 3633(a)(2). For this reason, it finds that the Existing Agreement, as amended, should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the amended agreement is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). *See also* 39 C.F.R. § 3015.7(c). Accordingly, a preliminary review of the Amendment indicates it is consistent with section 3633(a). The annual rate adjustment provision in section I.G. of

the amended agreement should allow the amended agreement's revenues to cover costs for the duration of its term. The Commission will continue to review the cost coverage of the amended agreement in its Annual Compliance Determination to ensure that rates cover costs.

*Other considerations.* The Postal Service states that the Amendment shall become effective on the day after the date that the Commission completes its review and does not alter the Existing Agreement's expiration date.

If the Existing Agreement, as amended, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

In conclusion, the Commission approves the Existing Agreement, as amended.

#### IV. ORDERING PARAGRAPHS

*It is ordered:*

1. The Commission approves the Priority Mail Express, Priority Mail, & First-Class Package Service Contract 2 negotiated service agreement, as amended.
2. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the scheduled expiration date.

By the Commission.

Ruth Ann Abrams  
Acting Secretary